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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R. S .A. No. 1890 of 2007
Date of decision: 29.11.2007

Jai Kumar and others **...Appellants**

Versus

Bhana and others **...Respondents**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. P.S.Chauhan, Advocate for the appellants.

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RAJESH BINDAL, J.

The plaintiffs are in second appeal before this Court against concurrent findings of facts by both the Courts below whereby suit for possession filed by them for the plot measuring 1 kanal was dismissed.

The claim set up by the plaintiffs was that they are owners of the plot as the same was inherited by them after death of Jogia their father. Mutation to that effect was also sanctioned in their favour on February 01, 2001 and as the respondents had forcibly taken the possession thereof, the necessity to file the suit arose.

In defence the plea raised by respondents was that infact predecessor-in-interest of the appellants, namely, Jogia sold the plot in question vide registered sale deed dated June 14, 1979 to one Angoori wife of Om Parkash. Though mutation on that basis was not entered but still the sale deed was duly proved on record. The boundaries of the plot as mentioned in the sale deed duly tallied with the boundaries of plot with Aks-shizra Ex. P-3 produced by the appellants/plaintiffs on record. Once the predecessor-in-interest of the appellants had already sold the plot in question to Angoori, he had no right left therein and consequently present appellants, who claimed ownership on the basis of inheritance from Jogia, will also have no right in the plot to the extent the same had been sold by Jogia to Angoori. Sale deed in favour of the respondents/defendants is not under challenge. However, as the size of the plot as available in Aks-shizra

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Ex. P-3 is more than what was sold by Jogia to Angoori, learned Courts below have rightly held that appellants shall be entitled to relief to the extent the remaining area of plot.

Findings had been recorded by the Courts below on appreciation of evidence brought on record.

In view of my above discussions, I do not find any substantial question of law arises in the present appeal.

The appeal is dismissed.

November 29, 2007 **(Rajesh Bindal)**
Pka **Judge**